



# MINUTES

## Criminal Code Reorganization Study Committee

June 3, 2008

### MEMBERS PRESENT:

Senator Keith Kreiman, Co-chairperson  
Senator Robert Hogg

Representative Kurt Swaim, Co-chairperson  
Representative Clel Baudler  
Representative Rick Olson

#### Public Members:

Mr. Dave Erickson  
Ms. Jennifer Miller  
Mr. Thomas H. Miller  
The Honorable Michael Mullins  
Ms. Jean Schlichtemeier

Ms. Pamela Summers  
Prof. James Tomkovicz  
Mr. Clarence Key, Jr. (Executive Director, Iowa  
Board of Parole) on behalf of Ms. Elizabeth  
Robinson

## MEETING IN BRIEF

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Organizational staffing provided  
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- I. Procedural Business
- II. Criminal Justice Information system Integration System (CJIS)
- III. Criminal Code Reorganization — Other States
- IV. Criminal Code Reorganization Subcommittees
- V. Materials Filed With the Legislative Services Agency



## Criminal Code Reorganization Study Committee

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### I. Procedural Business

**Call to Order.** Co-chairperson Swaim called the third meeting of the Criminal Code Reorganization Study Committee to order at 10:03 a.m. on June 3, 2008, in the Supreme Court Chamber (Room 103) at the State Capitol.

**Committee Business.** Upon motion, the Committee approved the minutes from the October 30, 2007, meeting of the Committee.

**Upcoming Meetings.** The next meeting of the full Committee will be scheduled later, perhaps in early September. Of the four subcommittees created by the Committee, the Foundational Subcommittee will meet July 8, 2008, at the University of Iowa College of Law, while meeting times for the other subcommittees are in the process of being scheduled.

**Adjournment.** The meeting was adjourned at 1:20 p.m.

### II. Criminal Justice Information System Integration System (CJIS)

**Overview.** Mr. David Meyers, Project Manager, CJIS, presented an overview of CJIS. The CJIS was formed in response to the need for criminal justice agencies to integrate information systems in order to share critical data, documents, images, and key transactions in an efficient manner. The project was established pursuant to a memorandum of understanding between the Governor's office and the Chief Justice of the Iowa Supreme Court. The CJIS is governed by a board consisting of the Governor, Chief Justice, director of the Department of Administrative Services, and the State Court Administrator. A 19-member advisory committee makes recommendations to the board. The project has multiyear funding and much of the computer software and hardware has been purchased. The Iowa Division of Criminal and Juvenile Justice Planning is managing the project.

**Process.** Each criminal justice agency inputs decisions regarding a person or case into a computer system that was developed in isolation from other agencies involved in a criminal case. The goal of CJIS is to allow independent computer systems to share common data concepts and to more easily communicate in an accurate and timely manner. As CJIS developed, the persons working on the system realized each reference to a criminal charge must be more uniform to facilitate the exchange of information between criminal justice agencies. In order to make the information more uniform, CJIS must identify each criminal offense in the Iowa Code by Code section. The CJIS reviewed the Criminal Code and identified approximately 3,000 criminal offenses which will be used by criminal justice agencies to identify a particular criminal charge in CJIS. The effort to create a charge code consolidation table is nearing completion and a draft of the proposal is included on the CJIS Web Site ([www.cjis.iowa.gov](http://www.cjis.iowa.gov)). In creating this table, some inconsistencies and ambiguities have been identified and CJIS is working with the Iowa Code Editor to try and address some of these issues. A subcommittee has been established to update the table, if necessary, following each legislative session.

Currently, CJIS is being operated on a pilot basis in eight to nine jurisdictions. Electronic citations are being used in Windsor Heights, West Des Moines, Ames, and Marshalltown, while victim notification information is being provided through the system from the Department of Corrections to



the Johnson county attorney's office. In just three months, about 2,200 electronic citations have been made.

**Limitations.** The CJIS is not a data storage system, it merely allows for the transmission of information throughout the criminal justice system. In addition, the system is not designed to provide information to the public and is not directly integrated with the judicial branch system.

Utilization of CJIS will hopefully eliminate the duplicate entry of criminal justice information and improve the accuracy of this information.

**Committee Discussion.** Representative Baudler commented that access to information about criminal cases to the public as well as victims of crime should be enhanced. Judge Mullins indicated that while the CJIS system is not directly integrated with the court system, the information available to judges through CJIS, such as outstanding warrants, will be helpful in sentencing. Co-chairperson Kreiman indicated that understanding which offenses included in the chart created by CJIS are indictable or not would be helpful and further noted that prosecutors and probation agencies would like information relative to charging decisions.

### III. Criminal Code Reorganization — Other States

**Overview.** Mr. Joe McEniry, Senior Legal Counsel, Legislative Services Agency, presented an overview of Criminal Code reorganizations and reviews occurring in other states. Many states, including Iowa, updated their criminal codes during the 1970s. Since that time, significant changes have occurred and criminal codes have become more complicated. As a result, many states have undertaken efforts to revise their criminal codes and to examine sentencing decisions.

**Illinois.** Illinois launched the Criminal Law Edit, Alignment and Reform (CLEAR) Initiative in 2005 to review and reorganize the Criminal Code of Illinois. The CLEAR initiative, funded through private donations, is comprised of judges, legislators, states attorneys, public defenders, and private citizens, with the goal of reforming the Illinois Criminal Code to make it more readable, understandable, consistent, and just. The CLEAR initiative has submitted a bill request embodying the reorganization plan with the Illinois Legislature but action on this has yet to be taken.

**Sentencing Commissions.** Senate Study Bill 110, currently before the California Legislature, would establish a Sentencing Commission and grant the Sentencing Commission the authority to modify criminal penalties in the California Criminal Code. As part of this bill, language would be added to the Criminal Code for each penalty saying that "alternatively, on or after a date of the California sentencing commission, the sentence would be what the commission established by rule." Much of the effort in California is arising out of prison overcrowding concerns. New Jersey has also set up a temporary commission to provide a comprehensive review of offenses. Wisconsin has recently allowed its sentencing commission to be sunsetted after being in existence for 10 years. Missouri has also established a sentencing commission, but the recommendations made are purely advisory to the courts. Virginia has established a sentencing commission within the judicial branch.



## **Criminal Code Reorganization Study Committee**

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**Other Options.** Another option to consider for Iowa would be to codify a Criminal Law Committee much like the Public Retirement Committee codified in Code Section 97D.4 for the purpose of examining criminal law issues on an on-going basis.

**Committee Discussion.** Co-chairperson Kreiman indicated the need to review the Criminal Code as it has been many years since the last major review in the state. Once completed, a systematic review and examination of future Criminal Code changes needs to be done going forward. While difficult to determine if an unclear Criminal Code leads to increased criminal justice costs, Judge Mullins noted that the interplay between habitual offender statutes, mandatory minimum sentences, and other sentencing enhancements, is difficult for judges to apply. Others noted that sentencing issues are common on appeal. Co-chairperson Swaim commented that if sentencing is unclear, the deterrent effect of various sentencing provisions may be reduced.

### **IV. Criminal Code Reorganization Subcommittees**

#### **A. Overview**

The Committee then discussed the four subcommittees established, the charge to each subcommittee, and membership on each subcommittee. Deviation from the charge to a subcommittee is fine but should be limited. The goal for each subcommittee should be to determine what can be achieved in the next six months. During this work period, the full committee will likely schedule a meeting around September to assess the progress of each subcommittee.

#### **B. Subcommittee reports**

During lunch, each subcommittee met to discuss goals and schedules for the next six months. Following the luncheon meetings, each subcommittee made a report to the full committee as to future goals and plans.

##### **1. The Foundational Subcommittee**

The Foundational Subcommittee, chaired by Professor Tomkovicz, is charged with reviewing definitions, culpability issues, defenses, and inchoate crimes. The subcommittee will likely meet five to six times to review various foundational issues. The first meeting is scheduled for July 8, in Iowa City, Iowa, and will likely examine issues relative to mens rea, causation, and mistake of fact and law.

##### **2. The Reorganization Subcommittee**

The Reorganization Subcommittee, with temporary chairperson Senator Kreiman, is charged with reviewing proposals to reorganize the Criminal Code and to enhance the overall readability of the Criminal Code. The subcommittee indicated it would examine proposals from CJIS, potentially rewrite the operating while intoxicated law, and attempt to make sentencing options more clear. The upcoming meeting of this subcommittee will be held August 11 at the State Capitol.



### **3. The Specific Crimes Subcommittee**

The Specific Crimes Subcommittee, chaired by Representative Rick Olson, is charged with reviewing proposals relating to specific criminal offenses including identifying potential gaps in the Criminal Code, adding criminal offenses, removing duplicative offenses and penalties, and proportionality. The subcommittee will examine various proposals from community-based corrections, county attorneys, and the criminal defense bar with an initial meeting to be held July 15 at the State Capitol.

### **4. The Sentencing Subcommittee**

The Sentencing Subcommittee, chaired by Judge Mullins, is charged with reviewing the sentencing structures of other states including the establishment of a sentencing commission. The subcommittee intends to contact the National Association on Sentencing Commissions to try and arrange a telephone conference call with a representative from the association concerning sentencing commissions. The subcommittee needs to examine all available options, including the possible establishment of a sentencing commission. The subcommittee indicated that it would establish a telephone conference for July 22 at the State Capitol.

## **V. Materials Filed With the Legislative Services Agency**

The following materials listed were distributed at or in connection with the meeting and are filed with the Legislative Services Agency. The materials may be accessed from the <Additional Information> link on the Committee's Internet web site:

<http://www.legis.state.ia.us/aspx/Committees/Committee.aspx?id=211>

1. Subcommittee Membership List.
2. CJIS — Summary, distributed by CJIS staff.
3. Criminal Code Reorganization and Review — Other States, distributed by LSA.
4. Portions of California SSB 110 — Establishing a Sentencing Commission, distributed by LSA.
5. Summary of the Repeal of Wisconsin Sentencing Commission, distributed by LSA.
6. New Jersey Sentencing Commission — Summary, distributed by LSA.
7. Summary of Missouri Sentencing Commission, distributed by LSA.
8. Summary of Virginia Sentencing Commission, distributed by LSA.